

Message Text

UNCLASSIFIED

PAGE 01 BOMBAY 00963 01 OF 02 261854Z
ACTION OES-06

INFO OCT-01 NEA-10 ISO-00 ERDA-07 L-03 NRC-07 AID-05
/039 W

-----261913Z 128807 /42

R 261016Z APR 77
FM AMCONSUL BOMBAY
TO SECSTATE WASHDC 7253
INFO AMEMBASSY NEW DELHI

UNCLAS SECTION 1 OF 2 BOMBAY 0963

E. O. 11652: N/A
TAGS: ENRG, PARM, IN
SUBJ: TARAPUR FUEL STORAGE

REF: STATE 81468

THERE FOLLOWS J.C. SHAH'S LETTER TRANSMITTING GOI'S
PRELIMINARY COMMENTS ON REFTEL. CONGEN COMMENTS FOLLOW IN
SEPTTEL.

QUOTE. DEAR MR. COURTNEY,
KINDLY REFER TO YOUR LETTER OF APRIL 13, 1977 TO DR.H.N.
SETHNA. OUR COMMENTS ON THE DRAFTS OF THE PROPOSED AGREEMENTS
ARE ENCLOSED. THESE MAY PLEASE BE FORWARDED TO THE PARTIES
CONCERNED. IT APPEARS THAT A FURTHER EXCHANGE OF VIEWS ON
THESE WILL BE USEFUL.

WE HAVE NOTED THE STATE DEPARTMENT'S VIEWS ON THE MECHANISM
OF EXECUTION OF THE DOCUMENTS. WE WILL REVERT ON THIS ASPECT
IN DUE COURSE.

YOURS SINCERELY, (SIGNED) J.C.SHAH
(ENCLOSURE)

ATOMIC POWER AUTHORITY
COMMENTS ON DRAFT AGREEMENTS RECEIVED FROM THE U.S.CONSULATE
GENERAL IN BOMBAY
THE FOLLOWING COMMENTS ARE OFFERED PARA-WISE ON THE DRAFTS OF
THE PROPOSED AGREEMENTS BETWEEN (1) UNITED STATES ENERGY
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BOMBAY 00963 01 OF 02 261854Z

RESEARCH AND DEVELOPMENT ADMINISTRATION AND THE GOVERNMENT
OF INDIA AND (2) BETWEEN THE GOVERNMENT OF INDIA AND THE
GENERAL ELECTRIC OF USA. THESE COMMENTS REPRESENT GOVERNMENT
OF INDIA'S (GOI) PRELIMINARY RESPONSE AND DESIRE FOR
CLARIFICATIONS IN SOME INSTANCES.
THE GOVERNMENT OF INDIA WOULD PREFER TO HAVE AN AGREEMENT
ONLY WITH ERDA WITH THE LATTER HAVING, IF NECESSARY, A

SEPARATE AGREEMENT WITH GENERAL ELECTRIC OR ANY OTHER CONTRACTOR THEY MAY WISH TO COMMISSION FOR THE STUDY. IN SUCH AN AGREEMENT THE GOVERNMENT OF INDIA CAN PROVIDE APPROPRIATE PROVISIONS FOR ERDA'S CONTRACTS.

IF THIS IS NOT PRACTICABLE IN THE SECOND ALTERNATIVE, THE GOVERNMENT OF INDIA WOULD PREFER A TRILATERAL AGREEMENT IN WHICH THE OBLIGATIONS AND INTERESTS OF EACH OF THE THREE PARTIES WILL BE COVERED. THIS APPEARS TO BE THE NORMUT PRACTICE WHEN MORE THAN TWO PARTIES ARE INVOLVED IN AN INTER-DEPENDENT ACTIVITY. SUBJECT TO THE ABOVE GENERAL OBSERVATIONS, PARA-WISE REMARKS ARE GIVEN BELOW:-

I. PROPOSED AGREEMENT BETWEEN ERDA AND GOI

TITLE: REVISED AS FOLLOWS:

"AGREEMENT BETWEEN THE UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION ACTING ON BEHALF OF THE GOVERNMENT OF THE UNITED STATES OF THE UNITED STATES OF AMERICA AND THE PRESIDENT OF INDIA ACTING THROUGH THE DEPARTMENT OF ATOMIC ENERGY (DAE) OF THE GOVERNMENT OF INDIA, HEREINAFTER CALLED GOI OR DAE WHICH EXPRESSION SHALL, UNLESS REPUGNANT TO THE CONTEXT, INCLUDE ITS SUCCESSORS AND ASSIGNS.

REVISED PREAMBLE:

WHEREAS THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF INDIA HAVE BEEN CO-OPERATING IN THE CIVIL USED OF ATOMIC ENERGY PURSUANT TO AN AGREEMENT FOR COOPERATION WHICH WAS ENTERED INTO AND WHICH IS IN FORCE FROM OCTOBER 25, 1963; WHEREAS THE PARTIES TO THIS AGREEMENT CONSIDER IT DESIRABLE THAT A STUDY OF THE POTENTIAL AND METHOD FOR INCREASING THE SPENT FUEL STORAGE CAPACITY OF THE TARAPUR ATOMIC POWER STATION SHOULD BE CONDUCTED;

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BOMBAY 00963 01 OF 02 261854Z

AND WHEREAS ERDA IS WILLING TO PERFORM SUCH A STUDY ON TRC GOI AGREEING TO MAKE AVAILABLE TO ERDA REPORTS RELATING TO APPLICATION AND USE OF THE INFORMATION PROVIDED BY ERDA AND ITS CONTRACTOR UNDER THIS AGREEMENT;

AND WHEREAS ERDA HAS AUTHORITY TO ENGAGE IN SUCH ACTIVITIES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED AND THE ENERGY REORGANIZATION ACT OF 1974. NOW, THEREFORE, ERDA AND THE GOVERNMENT OF INDIA AGREE AS FOLLOWS:-

CLAUSE 1: "ERDA, IF NECESSARY THROUGH OR WITH THE ASSISTANCE OF ITS CONTRACTORS (NAME GE IF THERE IS SEPARATE CONTRACT WITH GE) WILL CONDUCT A STUDY COVERING THE FEASIBILITY AND METHOD FOR INCREASING THE SPENT FUEL STORAGE CAPACITY OF THE TARAPUR ATOMIC POWERMGTATION. THE SCOPE OF THE STUDY SHALL BE AS FOLLOWS:-

(1) A DETERMINATION OF STRUCTURAL ADEQUACY AND NUCLEAR SAFETY ASPECTS.

(2) THE ADEQUACY OF COOLING FOR ADDITIONAL HEAT LOAD AND DETAILS OF MODIFICATIONS NECESSARY, IF ANY.

(3) FEASIBILITY AND PROCEDURES OF INSTALLATION UNDER

PRESENT CONDITIONS, INCLUDING ALTERNATIVE PLANS FOR HANDLING FUEL ALREADY IN STORAGE AS WELL AS EXISTING RACKS.

(4) DETERMINATION OF TECHNIQUES, SPECIAL EXPERTISE AND/OR SPECIAL EQUIPMENT AND MATERIALS INVOLVED;

(5) ESTIMATES OF INSTALLATION TIME, COST AND STORAGE GAIN FOR SUCH RACKS.

(6) ANY OTHER ASPECT THAT MAY ARISE FROM A CONSIDERATION OF THE ABOVE AND MAY NEED TO BE PURSUED TO ACHIEVE THE STUDY'S OBJECTIVES.

THE REST OF THE CLAUSE CAN BE ESSENTIALLY AS PER DRAFT WITH THE OBSERVATION THAT THE ANNEX MAY HAVE TO BE MODIFIED OR DROPPED IN VIEW OF OUR GENERAL OBSERVATIONS ABOVE.

CLAUSE 2: AFTER THE WORD "STUDY" IN THE 8TH AND THE 12TH LINES, THE WORDS "TO THE EXTENT AVAILABLE WITH DAE OF THE GOVERNMENT OF INDIA" SHOULD BE ADDED.

CLAUSE 3: NO CHANGE.

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 BOMBAY 00963 02 OF 02 261831Z

ACTION OES-06

INFO OCT-01 NEA-10 ISO-00 ERDA-07 L-03 NRC-07 AID-05

/039 W

-----261912Z 128317 /44

R 261016Z APR 77

FM AMCONSUL BOMBAY

TO SECSTATE WASHDC 7254

INFO AMEMBASSY NEW DELHI

UNCLAS SECTION 2 OF 2 BOMBAY 0963

E. O. 11652: N/A

TAGS: ENRG, PARM, IN

SUBJ: TARAPUR FUEL STORAGE

CLAUSE 4: THE WORDS "TO THE EXTENT POSSIBLE" SHOULD BE ADDED AFTER THE WORDS "MAKE AVAILABLE" IN 6TH LINE.

CLAUSE 4(A): TO BE ADDED AS FOLLOWS:

"ON COMPLETION OF THE STUDY, ERDA WILL FURNISH AT NO COST TO GOI INFORMATION DEVELOPED BY THE STUDY INCLUDING DESIGN BASIS, DESIGN DRAWINGS, SPECIFICATIONS AND STUDY REPORT."

CLAUSE 5: MAY BE REVISED AS FOLLOWS:

"THE APPLICATION OF SUCH INFORMATION PROVIDED UNDER

CLAUSE 4(A) ABOVE SHALL BE THE RESPONSIBILITY OF THE IAEC

AND ERDA DOES NOT WARRANT THE ACCURACY AND COMPLETENESS OF SUCH INFORMATION AND DOES NOT WARRANT THE SUITABILITY OF

SUCH INFORMATION FOR ANY PARTICULAR USE OR APPLICATION, BEYOND ENSURING THAT THE RECOMMENDATIONS ARE IN CONFORMITY WITH THE APPLICABLE STANDARDS OF THE UNITED STATES NUCLEAR REGULATORY COMMISSION AND WITH THOSE AS MAY BE SPECIFICALLY ADVISED BY DAE."

CLAUSE 6: NO CHANGE.

CLAUSE 7(A): NO CHANGE.

CLAUSE 7(A) (1): THE PURPOSE OF HAVING TWO SUB-CLAUSES (1)

AND (II), UNDER THIS CLAUSE IS NOT CLEAR ALTHOUGH GOI

HAVE NO PARTICULAR OBJECTION

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BOMBAY 00963 02 OF 02 261831Z

TO HAVING THEM. IN A(I)(II)

HOWEVER, THE WORD "ERDA" IN THE THIRD LINE SHOULD BE REPLACED BY "DAE."

(B) NO COMMENTS

(C) NO COMMENTS

CLAUSE 8(A): IN THE THIRD LINE, THE WORDS "AS SUCH" SHOULD BE INSERTED AFTER THE WORDS "SPECIFICALLY IDENTIFIED" AND THE WORD "INTRODUCTION" COULD BE REPLACED BY THE WORD "USE."

CLAUSE 8(B): THE WORDS "AT THE DISCRETION OF ERDA AND IAEC" SHOULD BE REPLACED BY THE WORDS "WITH MUTUAL CONSENT."

CLAUSE 8(C): NO CHANGE.

CLAUSE 8(D): NO CHANGE.

CLAUSE 9: THE FOLLOWING SHOULD BE ADDED:-

"PROVIDED THAT INDEMNITY WILL NOT APPLY TO ANY LIABILITY ARISING FROM THE USE OF ANY PROPRIETORY OR PATENTED INFORMATION PROVIDED BY ERDA OR ITS CONTRACTORS WITHOUT ITS BEING SO IDENTIFIED."

CLAUSE 10: PLEASE SEE THE GENERAL REMARKS. IF FOR ANY REASON THE ASPECT OF GOI-GE AGREEMENT IS NOT SATISFACTORILY RESOLVED, ERDA MAY WISH TO UTILISE AN ALTERNATIVE CONTRACTOR FOR THE STUDY. INCIDENTALLY, THE WORD "ACKNOWLEDGES" IN THE FIRST LINE COULD BE "NOTES."

CLAUSE 11: NO COMMENTS

CLAUSE 12: NO COMMENTS

CLAUSE 13: NO COMMENTS.

IT IS CUSTOMARY TO INCLUDE A CLAUSE ON ARBITRATION IN SUCH AGREEMENTS. THIS MAY BE CONSIDERED.

II. PROPOSED AGREEMENT BETWEEN GOI AND GE.

TITLE: REVISED AS FOLLOWS:-

"AGREEMENT BETWEEN THE PRESIDENT OF INDIA ACTING THROUGH THE DEPARTMENT OF ATOMIC ENERGY (DAE) OF THE GOVERNMENT OF INDIA (GOI) AND THE GENERAL ELECTRIC COMPANY OF THE UNITED STATES OF AMERICA (GE)."

PREAMBLE:

1ST PARA: NO COMMENTS

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BOMBAY 00963 02 OF 02 261831Z

2ND PARA: WOULD NEED CONSEQUENTIAL MODIFICATION BASED UPON THE GENERAL REMARKS.

ARTICLE I: WHILE THENGOI ARE WILLING TO PROVIDE SUITABLE PROTECTION TO GE FOR OCCURRENCES IN INDIA, THE INDEMNITY SPELT OUT IN I(A) CANNOT BE PROVIDED.

ARTICLE I(B): GENERALLY ACCEPTABLE.

ARTICLE I(C): NOT ACCEPTABLE.

ARTICLE I(C)(2): SUPERFLUOUS.

ARTICLE I(C)(3): IT IS NOT CLEAR AS TO WHICH ARTICLE IS REFERRED TO IN THIS. IN ANY EVENT, GOI WOULD HAVE NOTHING TO DO WITH GE'S SUPPLIERS DIRECTLY.

ARTICLE II(A): ACCEPTABLE IN PRINCIPLE.

ARTICLE II(B): ACCEPTABLE IN PRINCIPLE.

ARTICLE II(C): NOT ACCEPTABLE. IN PARTICULAR, AS PROVIDED IN THE PROPOSED ERDA-GOI AGREEMENT IN ARTICLE 8(A), ANY INFORMATION FURNISHED BY ANY PARTY INCLUDING GE, IF IT IS OF A PROPRIETARY NATURE AND PARTICULARLY IF IT INFRINGES ON PRIVATELY OWNED RIGHTS, MUST BE IDENTIFIED AS SUCH BY THE PARTY PROVIDING PV. IT WILL BE POINTLESS TO HAVE INFORMATION WHICH CANNOT BE USED FOR THE PURPOSE FOR WHICH THE STUDY IS BEING UNDERTAKEN. ONCE SUCH INFORMATION IS SO IDENTIFIED AND MADE AVAILABLE, IT WILL BE DEALT WITH AS PROVIDED FOR IN ARTICLE 8(A) AND (B) OF THE ERDA-GOI AGREEMENT.

SECONDLY, THE ACCURACY, COMPLETENESS OR USEFULNESS OF THE INFORMATION AND CONCLUSIONS FURNISHED PURSUANT TO THE STUDY SHOULD BE AT LEAST SUCH AS TO SATISFY THE RELEVANT CRITERIA OF THE US NRC AND OF THE GOI WHEN SO PRESCRIBED.

ARTICLE III. THESE ARE MUCH TOO SWEEPING AND NOT ACCEPTABLE.

GENERAL CONDITIONS: IN THE EVENT A SEPARATE AGREEMENT BETWEEN GE AND GOI IS UNAVOIDABLE, THEN GOI WOULD LIKE TO STUDY THE AGREEMENT BETWEEN ERDA AND GE AS THIS HAS BEEN REFERRED TO IN BOTH THE PROPOSED AGREEMENTS.

ARTICLE IV: THE DEFINITIONS PROVIDED ARE BEING STUDIED FURTHER. IN GENERAL SUCH DEFINITIONS SHOULD CONFORM UNCLASSIFIED

UNCLASSIFIED

PAGE 04 BOMBAY 00963 02 OF 02 261831Z

STRICTLY TO THOSE IN RELEVANT US STATUTES.
REMARKS MADE REGARDING ARBITRATION FOR THE PREVIOUS AGREEMENT APPLY HERE ALSO. END QUOTE.
COURTNEY

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: STORAGE, NUCLEAR COOPERATION PROGRAMS, NUCLEAR FUELS
Control Number: n/a
Copy: SINGLE
Sent Date: 26-Apr-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977BOMBAY00963
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770145-0594
Format: TEL
From: BOMBAY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770420/aaaaaqxt.tel
Line Count: 274
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 5419969f-c288-dd11-92da-001cc4696bcc
Office: ACTION OES
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 STATE 81468
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2698774
Secure: OPEN
Status: NATIVE
Subject: TARAPUR FUEL STORAGE
TAGS: ENRG, PARM, IN, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/5419969f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009